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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,270

03/19/2004

Jason Gao

Gao200301

5381

7590

03/02/2005

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EXAMINER

JUBA JR, JOHN

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/803,270	Applicant(s) GAO ET AL.	
	Examiner John Juba, Jr.	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. §119(e) as follows:

Copendency between the current application and the prior application is required.

Office records show that provision application serial number 60/454,622 was filed on March 17, 2003. The prior provisional application became abandoned on March 17, 2004 by operation of law. 35 U.S.C. §111(b)(5). See MPEP 201.04(b).

Applicants have been accorded a filing date of March 19, 2004. Thus, the non-provisional application was not filed within 12 months of the prior provisional application, as required under §119(e). See MPEP 201.11.

It appears that Applicants seek the benefit of timely filing by Express Mail under 37 CFR 1.10. The examiner was unable to ascertain the actual date of deposit from the Express Mail number indicated in Applicants' transmittal. (See also 37 CFR 1.6, MPEP 502 and 513).

If Applicants followed proper procedure and are entitled to a filing date based upon the deposit date of Express Mail on or before March 17, 2004, then a Request for Corrected Filing Receipt should be directed to "Mail Stop: Missing Parts" (along with a copy of the Express Mail receipt, and referring to this application by serial number and Official filing date. See MPEP 502; 37 CFR 1.5).

If Applicants were not accorded such a filing date because they did not follow proper procedure, then any review of the matter is conducted by way of petition, accompanied by the petition fee (37 CFR 1.17(h)), providing whatever arguments and evidence petitioner has that the application is entitled to a filing date as of the date it was deposited as Express Mail. MPEP 506.02.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

The disclosure is objected to because of the following informalities: Applicants' reference to the prior filed provision application should expressly state an intention to rely upon the earlier filing date. The statement should appear as the first sentence of the specification. The appropriate form would be "This application claims the benefit of U.S. Provisional Application No. 60/- - -, filed - - -."

Appropriate correction is required. See MPEP 201.11 at III(B).

Claim Objections

Claims 1 - 3 are objected to because of the following informalities. Appropriate correction is required:

In claims 2 and 3, "said the first" should read either "said first" or "the first".

In claims 2 and 3, there is no antecedent basis for "the first mirror" or "the second mirror".

Claim 1 is objected to as being narrative. See MPEP 608.01(i) and 608.01(m). The claim further begs the question "A combination of a two-mirror assembly *and what?*" Customarily, the claim has a preamble which is separated from the body of the claim by either such open-ended language as "comprising:" or "including:", by such closed-ended language as "consisting of". The following claim is suggested for the purposes of overcoming the foregoing objections, and *not for the purposes of distinguishing over the prior art*.

1. A two-mirror assembly for use within the interior of a motor vehicle having a rear window, a front windshield, and a main rear view mirror mounted in proximity of the front windshield for reflecting a view through the rear window to the driver of said vehicle, said two-mirror assembly comprising:

a first mirror and a second mirror, wherein said two-mirror assembly is arranged within said motor vehicle so as to reflect the field below the rear window to said driver via said main rear view mirror.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Topping (U.S. Patent number 2,197,280). Topping discloses a two-mirror assembly for use within the interior of a motor vehicle having a rear window (25), a front windshield, and a main rear view mirror (2) mounted in proximity of the front windshield for reflecting a view through the rear window to the driver of said vehicle, said two-mirror assembly comprising:

a first mirror (7) mounted near the top of the rear window and a second mirror (10), wherein said two-mirror assembly is arranged within said motor vehicle so as to reflect the field below the rear window to said driver via said main rear view mirror. The first “ray-gathering” mirror (7) is convex (see brief description of Fig. 4) and the second mirror (10) is a flat mirror (“plano”). The characterization of the assembly as disclosing “whether there be unwanted passengers in the vicinity of the rear bumper” fairly conveys that the assembly provides a field of view below the rear window.

Responding to this Office Action

The examiner acknowledges Applicant's intention to prosecute this application *pro sé*. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Applicant is advised that the Manual of Patent Examining Procedure (MPEP) is available on-line at www.uspto.gov, via the "Patents" link. Click on "Guidance, tools & manuals", under "Guides . . .". The relevant statute (35 U.S.C. __) and rules (37 CFR__) referred to herein may be found at the same web site under "Law and Rules . . .".

This Office action sets a 3-month shortened statutory period for response. Extensions of time may be obtained under 37 CFR 1.136(a). In no case may the period for response be extended beyond the six-month statutory period for reply. The fees (e.g., for extensions of time and additional claims) are listed in 37 CFR 1.17(a). However, the manual may not have been updated as to the new fees, which just became effective February 1, 2005. The new fee schedule can be found on the Internet at:

<http://www.uspto.gov/main/howtofees.htm>

Applicant may wish to review MPEP 714, which describes the nature and requirements of a complete response to an Office action.

Applicant is advised that any amendments to the application papers must be made in compliance with 37 CFR 1.121. This revised amendment practice can also be found on the "Patents" web page under "Law and Rules . . ." at "Revised Amendment Practice". The final rule was also published in Federal Register Vol. 68, no. 125, June 30, 2003 at 38628:

<http://www.uspto.gov/web/offices/com/sol/notices/68fr38611.pdf>

Applicant is reminded that any papers filed related to this application must be properly identified. See 37 CFR 1.5 and MPEP 502.

Applicant is advised that the benefit of timely filing is assured through the "Certificate of Mailing" practice described in 37 CFR 1.6.

USPTO employees are not permitted to initiate communications with applicant via Internet e-mail unless there is a written authorization of record in the patent application by the applicant. Please refer to MPEP 502.03 for a sample authorization form. Communications may be directed to the Office at the discretion of the Applicant. However, without written authorization by applicant in place, the USPTO will not respond via Internet e-mail to any internet correspondence which contains information subject to the confidentiality requirement as set forth in 35 U.S.C. 122. A reply to this Office action may NOT be communicated by applicant to the USPTO via Internet e-mail.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Paxton (U.S. Patent number 1,844,438) discloses a two-mirror assembly mounted on the vehicle interior for providing a field of view below the rear window via the two-mirror assembly and the regular rear view mirror.


Paxton (U.S. Patent number 1,844,437) discloses a two-mirror assembly for providing a field of view below the rear window via the two-mirror assembly and the regular rear view mirror.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Juba whose telephone number is (571) 272-2314. The examiner can normally be reached on Mon.-Fri. 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Drew Dunn whose number is (571) 272-2312 and who can be reached on Mon.- Thu., 9 - 5.

The centralized fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for *all* communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2800.


JOHN JUBA, JR.
PRIMARY EXAMINER
Art Unit 2872

February 28, 2005